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# *The Merchants' Guide to* **DOING BUSINESS** IN THE **BACK BAY** **HISTORIC DISTRICT**



BRA  
656

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The Newbury Street League  
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## TABLE OF CONTENTS

### WELCOME TO THE BACK BAY

#### *A FEW THINGS TO KNOW:*

#### **1**

#### ESTABLISHING YOUR STORE

#### **2**

#### DESIGNING YOUR STORE

#### **3**

#### SIGNS

#### **4**

#### RESTAURANTS

#### **5**

#### MERCHANDISE OUT OF DOORS

#### **6**

#### PARKING IN THE BACK BAY

#### **7**

#### TRASH PICK-UP

#### PHONE NUMBERS AND ADDRESSES

## WELCOME!

Welcome to Boston's historic Back Bay. This Guide is for anyone interested in establishing a retail or service business in the Back Bay. The Back Bay is a precious part of the City of Boston, noted for its sidewalk cafes, art galleries, lovely Victorian brownstones, and boutiques. Bostonians take great pride in the architectural beauty, commercial vitality, and cosmopolitan ambiance of this special district.

To protect the health and safety of its citizens, the City of Boston's Zoning Code governs how land and buildings can be used and designed. In addition, within the City of Boston, there are seven Architectural Districts, of which the Back Bay is one, where an extraordinary collection of historic and architecturally valuable buildings exists. In such districts, Architectural Commissions review any proposed work which affects the exterior architectural features of a structure. The Commonwealth of Massachusetts also regulates certain aspects of buildings, particularly through the State Building Code, which will be referenced in this Guide where appropriate.

These regulations ensure that Back Bay remains a desirable and profitable place to do business because of its special architectural charm and the care taken in the way merchandise is displayed and sold. These regulations not only protect the physical assets of the district, but also insure that the high caliber and quality of commerce which shoppers expect will be maintained over time.

As you read this Guide, take note of any actions which will require a public hearing. In these instances, while not legally required, it is often useful to meet beforehand with neighborhood and business groups or anyone who might be affected by the proposed work to resolve any concerns.

The purpose of this Guide is to provide a quick overview of the principal regulations which apply to retail

businesses in the Back Bay and a list of names and phone numbers of government agencies and civic associations that can help you find out more.

Please remember that this Guide is only an introduction. The more you know about the regulations that apply to your business, the more easily you will be able to operate your business in the Back Bay.

## 1. ESTABLISHING YOUR STORE

Before you sign a lease for space in the Back Bay, be sure you understand the laws governing the use and design of that space and how to go about getting any permits you might need. In particular, you should check the legal use (or legal occupancy) of the space you are considering renting. You can do this easily by going to the City of Boston Inspectional Services Department (ISD) and asking to see the file on that building (called the building *jacket*). The building jacket contains documents which will help you determine the legal occupancy of the building.

Typically, if a building has been subdivided into individual spaces with different uses, such as an office building with ground floor retail, each leased space should be listed separately with its legal occupancy. Do not assume that the previous use of the space you are considering was legally established with ISD.

If the legal occupancy of the space is for a type of business other than what you are planning, you must apply to ISD for a *change of use permit* or in some cases a *zoning variance*. For clarification, consult the Plans Examiner on duty at ISD.

## 2. DESIGNING YOUR STORE

If you plan to do renovation work in your retail space, you need to get a *building permit* from ISD, which you must display on the premises while the work is in progress. Call ISD for a *building permit application*, fill it out, and file it at ISD's Application

Desk. If you have any questions when you call ISD, ask for the Plans Examiner on duty.

The ISD Plans Examiner will review your project to determine whether the renovation project complies with the Boston Zoning Code and the Massachusetts State Building Code and will check to see if a *Certificate of Appropriateness* is required. Because you are located in the Back Bay Architectural District you may be required to submit plans to the Back Bay Architectural Commission. If the work will affect an exterior architectural feature, the Commission will review it to ensure that it is compatible with the architectural features of the district. Consultation with Commission staff beforehand typically shortens this process.

Public hearings of the Back Bay Architectural Commission are held the second Wednesday of every month. If your completed application is submitted at least two weeks in advance, you will be placed on the agenda of the next Commission hearing. The Commission will hold a public hearing and render a determination, usually at the hearing, which is followed up later in writing. If your work is approved, you will be issued a Certificate of Appropriateness. Bring this Certificate to ISD and have it attached to your building permit application. If the project complies with all applicable codes, the Plans Examiner will issue a building permit and you can get to work.

If the work does not comply, the building permit will be denied. If ISD denies the building permit because the project requires zoning relief (such as conditional use approval or a variance), you may then *appeal* the decision to the Board of Appeal by filing appeal documents at ISD. Board of Appeal public hearings are held every Tuesday in Room 801 at Boston City Hall. Your appeal will be scheduled in the order in which it is received.

Under certain conditions, you may need to make a provision for *barrier-free access* for disabled people.

Barrier-free access is regulated by the City of Boston, the Commonwealth of Massachusetts and the federal government. The ISD Plans Examiner will help you to determine whether you need to provide barrier-free access.

### 3. SIGNS

Signage is one of the more important means a retailer has to attract passersby. An appropriately designed sign also conveys the image of the business. Back Bay, and in particular Newbury Street, has traditionally been known for elegant and well-designed storefront signs.

Signs are defined in Article 11 of the Boston Zoning Code and include, for example, something attached flush or at right angles to a building, something placed inside window glass, or something attached to or painted on a canopy, marquee, or awning. Banners and flags are also considered signs and thus are subject to all of the same regulations and procedures as other signs. The only signs for which no permit is required under the Zoning Code are "temporary" signs - those which are in place no more than 15 days, that use less than 30 percent of the window space and advertise special sales or events.

Freestanding signs, including the "sandwich board" type, are prohibited in this district whether on the public sidewalk or on the privately-owned front yard.

The City of Boston regulates signage for two general reasons. From a zoning standpoint, the City must ensure public safety. For example, a sign placed in front of a building exit could present a hazard to people trying to leave the building, particularly during a fire or other emergency. In the entire City, the erection, installation, alteration or replacement of signs requires a building permit issued by ISD.

In certain parts of the City, particularly in Architectural Districts, the City is also concerned that the sign



not detract from the special character of that district. For example, garish and oversized signs would be out of place with the intimate scale and subtle detailing of the architecture for which the Back Bay is famous, and undermine the high quality of stores and businesses, perhaps even driving property values down. Therefore, in the Back Bay Architectural District, all signs must be reviewed by the Back Bay Architectural Commission and receive a Certificate of Appropriateness. Consultation with Commission staff before you develop your signage is advisable and will shorten approval time.

The approval procedure is similar to that described in *Designing your Store*. Call ISD for a *building permit application*, fill it out, and file it at the ISD Application Desk. If the sign complies with the Boston Zoning Code, you must then submit the plans for the sign to the Back Bay Architectural Commission which will schedule a public hearing. Public hearings are held the second Wednesday of every month. The Commission will hold the public hearing and render a determination. If your sign is approved, you will be issued a *Certificate of Appropriateness* similar to those given to approved building plans. Bring this Certificate to ISD and have it attached to your building permit application.

Once ISD determines that the proposed sign complies with the Boston Zoning Code and you have received a Certificate of Appropriateness, a building permit will be issued and you can erect the sign. If the application is denied, you may appeal to the Board of Appeal.

Another method of sign approval involves all of the tenants of a single property. Your landlord may prepare a *Comprehensive Sign Design Plan* for the entire building that covers all present and future building tenants and submit it the Boston Redevelopment Authority (BRA). If this plan is approved by the BRA and receives a Certificate of Appropriateness from

the Back Bay Architectural Commission, ISD can issue a permit allowing for the erection of signs that comply with that plan.

#### 4. RESTAURANTS

You have decided to become a restaurateur. You have chosen the Back Bay for a romantic little bistro, a four-star gourmet dining room, or a funky little ice cream shop. There are about 100 restaurants currently operating in Back Bay.

One thing to remember: in the commercial district of the Back Bay a restaurant is a conditional use under the Zoning Code and therefore requires a *conditional use approval*. Conditional uses are those that require a case-by-case review to ensure that the particular proposal is appropriate in that location and does not present a nuisance or hazard to abutters or the public.

Conditional uses are approved by the Board of Appeal. The procedure for requesting such an approval from the Board for a building permit denial is to first submit a building permit application to ISD. Your application will routinely be denied because ISD cannot issue a building permit for work on a conditional use (such as a restaurant) until the Board of Appeal approves that conditional use for the project. Once you receive the denial letter, you may then file your appeal with the Board of Appeal. You can do this at ISD where you filed your building permit application and the appeal will be forwarded to the Board of Appeal at Boston City Hall. The Board of Appeal will hold a public hearing, taking testimony for and against the application, and then render a decision. Public hearings are generally held every Tuesday.

If a conditional use is approved by the Board of Appeal, then obtain a building permit from ISD and establish the use, in this case, the restaurant, according to any conditions imposed by the Board of Appeal.

If you plan on providing take-out food, be aware that this is a separate conditional use also requiring the ap-



proval of the Board of Appeal. It can be processed on the same application and at the same hearing. Follow the process described above.

Outdoor seating also requires the approval of the Back Bay Architectural Commission.

Establishments serving alcoholic beverages must also seek approval of the City of Boston Licensing Board and the Massachusetts Alcoholic Beverage Control Commission.

## **5. SELLING AND DISPLAYING MERCHANDISE OUT OF DOORS**

Merchants often place goods outside their stores to pique shoppers' interest and draw them inside. You should be aware that this practice requires the approval of City agencies.

The display or sale of merchandise out of doors on the premises of a store is a conditional use in the Back Bay commercial district, as it is in most commercial areas of the City, and therefore requires approval of a *conditional use* from the Board of Appeal. This approval however, will only cover outdoor sales that are part of the operation of the store (usually sales of the same merchandise sold inside the store) and would not cover a separate vendor.

The procedure for obtaining conditional use approval is similar to that described in the previous section for restaurants. First, submit an application to ISD. Once you receive a denial letter, file an appeal with the Board of Appeal. After a public hearing, the Board of Appeal will render a decision.

If your conditional use is approved, you can display or sell the merchandise outdoors according to any conditions listed on the approval. You should also be aware, however, that under most leases, the placement of merchandise out of doors on private property typically requires the approval of the building owner or landlord.

## 6. PARKING IN THE BACK BAY

Like other sections of the City of Boston, Back Bay has parking regulations which insure that available parking equitably serves the needs of businesses, residents, and visitors.

Throughout the City of Boston, the legal on-street parking limit is two hours. Similarly, in much of the commercial area of Back Bay, there is on-street, metered parking of either a one-hour or a two-hour duration which costs \$1.00 per hour. Short-term parking and turn-over from metered spaces generally allows more visitors to find a parking space throughout the day than if longer term parking was allowed.

For longer stays in the Back Bay, there is an abundant supply of off-street parking. There are currently about 22 parking garages and surface lots in Back Bay between Charles Street and Massachusetts Avenue with approximately 11,000 spaces, compared with approximately 1,400 metered on-street spaces. Many parking facilities offer discounts with certain business validations as well as valet service.

The following types of special restricted parking zones exist:

- Loading zones for properly identified commercial vehicles
- Handicapped parking spaces
- Resident Parking Sticker spaces
- Cab stands
- MBTA bus stops

Tickets are issued to vehicles illegally parked in spaces with these designations. Most tickets are \$25.00 including those for expired meters; a violation for handicapped parking is \$75.00.

For street cleaning, the following parking restrictions apply:

**COMMERCIAL AREA** (*Boylston Street To Commonwealth Avenue*)

*Boylston Street:* Nightly 2 a.m. to 7 a.m.

*Newbury Street:* Monday/Tuesday, alternate sides, 2 a.m. to 7 a.m.

*Cross Streets: (Beacon to Commonwealth )* Monday, alternate sides, 6 a.m. to 8 a.m.

**RESIDENTIAL AREAS** (*Beacon Street, Marlborough Street, Commonwealth Avenue and Cross Streets*) - Monday, alternate sides, 8 a.m. to 12 noon

## **7. TRASH PICK-UP**

Commercial businesses must dispose of trash by hiring a contractor who is licensed to haul trash within the City of Boston. You may wish to discuss trash collection procedures with your landlord. It is generally recommended that you ask to see the contractor's license.

A commercial business may rent a dumpster from the contractor who will empty it on a periodic basis.

Dumpsters must be placed on private property, be emptied regularly and have tight-fitting lids which are fully closed. In order to have a dumpster in the public alley or on public property, a business must obtain a permit from the City of Boston Public Works Department.

Commercial trash which is not in a dumpster must be put out for contracted collection in the alley at the rear of the property only after 6:00 a.m. on the day of collection either in barrels or durable plastic bags. Commercial trash must be collected between 6:00 a.m. and 9:00 a.m. Barrels must be returned to private property immediately following collection.

Fines are assessed for violations.

Sidewalk receptacles are for the convenience of pedestrians; businesses are not allowed to use them to dispose of commercial trash.

## HELPFUL PHONE NUMBERS AND ADDRESSES

*To get application forms and find out more information, contact:*

### AT THE CITY OF BOSTON:

#### INSPECTIONAL SERVICES DEPARTMENT

Building Permits and Plans Division

1010 Massachusetts Avenue

Boston, MA 02118

617-442-1345

#### BACK BAY ARCHITECTURAL COMMISSION

City of Boston Environment Department

Room 805

Boston City Hall

Boston, MA 02201

617-635-3850

#### BOARD OF APPEAL

Room 204 (*public hearings are usually held in Room 801*)

Boston City Hall

Boston, MA 02201

617-635-4775

#### BOSTON POLICE STATION AREA D

7 Warren Avenue

Boston, MA 02116

617-343-4250

#### BOSTON REDEVELOPMENT AUTHORITY

Boston City Hall, 9th floor

Boston, MA 02201

617-722-4300

#### BOSTON TRANSPORTATION DEPARTMENT

Boston City Hall, 7th floor

Boston, MA 02201

617-635-4488

## **CODE ENFORCEMENT**

152 North Street

Boston, MA 02109

617-725-4896

## **COUNCILOR DAVID SCONDRAS**

Boston City Council

Boston City Hall, 5th floor

Boston, MA 02201

617-635-4225

## **LICENSING BOARD**

Room 809

Boston City Hall

Boston, MA 02201

617-635-4170

## **MAYOR'S OFFICE OF NEIGHBORHOOD SERVICES**

Room 709A

Boston City Hall

Boston, MA 02201

617-635-3485

## **AT THE COMMONWEALTH OF MASSACHUSETTS:**

### **MASSACHUSETTS ARCHITECTURAL ACCESS BOARD**

Room 1310

1 Ashburton Place

Boston, MA 02108

617-727-0660

### **MASSACHUSETTS ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Room 2204

100 Cambridge Street

Boston, MA 02202

617-727-3040



**BACK BAY BUSINESS AND RESIDENTS  
ASSOCIATIONS:**

**BACK BAY ASSOCIATION, INC.**

224 Clarendon Street, Suite 32

Boston, MA 02116

617-266-1991

**NEIGHBORHOOD ASSOCIATION OF THE  
BACK BAY**

337 Newbury Street

Boston, MA 02115

617-247-3965

**NEWBURY STREET LEAGUE**

158 Newbury Street

Boston, MA 02116

617-267-7961

*Photographs By Prataap Patrose*

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